

November 15, 2002

Chairman Michael Powell
Commissioner Kevin Martin
Commissioner Kathleen Abernathy
Commissioner Michael Copps
Commissioner Jonathan Adelstein
445 12th Street SW, Portals II Building
Washington, D.C. 20544

RE: Notice of Written Ex Parte Comment—Two Originals filed in the proceeding captioned: *In the matter of Review of the Section 251 Unbundling Obligation of Incumbent Local Exchange Carriers*, cc Docket Nos. 01-338, 96-98 and 98-147, Notice of Proposed Rulemaking, FCC 01-361 (rel. Dec. 20, 2001)

Dear Commissioners:

As an individual state Commissioner, I strongly support the FCC review of the unbundling requirements of incumbent local exchange carriers. I write in order that the Agency is not left with the impression that there is unanimous agreement among state Commissioners with the position that the National Association of Regulatory Utility Commissioners has taken in this proceeding.

I am concerned that widespread, low-cost availability of unbundled network elements creates a disincentive for facilities-based competition and harms both incumbents and competitors. Furthermore, all types of competition should be relevant to the determination of the “necessary and impair” standard.

At this triennial review, it is appropriate for the FCC to determine which UNEs meet the “necessary and impair standard” and to provide that state Commissions cannot impose additional UNE requirements that go beyond the requirements of the 1996 Federal Telecommunications Act as you interpret it. It would also be counterproductive to require redundant findings by each state Commission before a UNE could be de-listed. All parties expend far too many resources when the same battles must be fought repeatedly.

Like my fellow NARUC Commissioners, I remain focused on the task of promoting facilities-based competition and more consumer choices. Unlike the NARUC organization, however, I believe that the surest way to accomplish that goal is to encourage facilities-based competition and to encourage the ILECs to make capital expenditures.

Thank you for your attention to this important matter. Please do not hesitate to contact me about this or any other telecommunications issue. I look forward to the positive impact that your decision can have on the telecommunications industry and its customers.

Sincerely,

Connie Murray, in her individual capacity,
Commissioner, Missouri Public Service Commission